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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/341,227 08/27/99 DURR

H BAYER10184-K

HM12/0125
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EXAMINER

SISSON, B

ART UNIT

PAPER NUMBER

1655

DATE MAILED: 01/25/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks



UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
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EXAMINER

ART UNIT

PAPER

13

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On December 4, 2000 applicant's representative submitted to the Office via facsimile transmission a request for the withdrawal of the finality of the prior Office action. Applicant asserts inter alia, that rejections made against claims 18 and 19 could have been made against original claims 6 and 7 and as such the amendment of cancelling claims 1-12 and the addition of claims 13-28 did not necessitate a new grounds of rejection.

All originally pending claims, claims 1-12, were canceled by the amendment of July 25, 2000. Applicant also added new claims 13-28 in the same amendment. Accordingly, any and all rejections placed against claims 13-28 were "new" and were necessitated by amendment as it was not possible to have previously examined any of claims 13-28, including that of claims 18 and 19, as they were not previously of record.

Applicant's argument that the issue placed against claims 18 and 19 would have been "fully applicable against original claims 6 and 7" is not persuasive as the device of claims 6 and 7 was intended for the mere isolation and concentration of a macromolecule. In contrast, the device of claims 18 and 19 is not directed to "isolation and concentration" but is directed to performing any type of "analysis" of any macromolecule. The aspect of being capable of performing analysis raises a new issue that was not present in the original claims. Accordingly, the new ground of rejection would not have been applicable against original claims 6 and 7 which did not require any6 analytical capability and was appropriate against newly added claims 18 and 19 which did require such a capability.

For the above reasons, and in the absence of convincing evidence to the contrary, the request is DENIED.

The subject application remains FINALLY REJECTED with a SHORTENED STATUTORY PERIOD OF RESPONSE set to 3 months from the mailing date of the last Office action, 22 September 2000. Extensions of time may be available under 37 CFR 1.136(a). Failure to reply within an extended period for reply will, by statute, cause the application to become ABANDONED (35 USC 133).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bradley L. Sisson whose telephone number is (703) 308-3978. The examiner can normally be reached on Monday through Thursday from between the hours of 6:30 a.m. to 5 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, W. Gary Jones, can be reached on (703) 308-1152. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-7230.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1234.

B. L. Sisson
Bradley L. Sisson
Primary Examiner
Art Unit: 1655